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Submitted Electronically

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex K)  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Re: SSNs in the Private Sector (Property-Casualty Insurer Use) (Project No. P075414)

Ladies and Gentlemen:

The American Insurance Association (AIA)<sup>1</sup> appreciates the opportunity to provide comments to the Federal Trade Commission regarding private sector uses of Social Security Numbers (SSNs), as part of the FTC's work arising from the April 2007 Strategic Plan of the President's Identity Theft Task Force.

SSNs are indispensable to the property-casualty insurance industry because of their vital role in preventing fraud, responding to federal and state mandates, interacting with the health care system and with major employers, authenticating individuals and claims, and performing many other crucial functions. Indeed, the uses described here are likely not an exhaustive list given the extent to which they are imbedded in the system.

SSNs Required by Law / Government Mandates

Federal and state government mandates drive much of the use of SSNs.

There are many instances where a SSN is required by law or regulation (especially where data is exchanged with federal and state governmental agencies). Some of these mandates occur in the claims context and others are administrative in nature.

In the interest of national security, there are situations where a SSN is essential. The Treasury Department's Office of Foreign Assets Control (OFAC) requires insurers to ascertain whether a person or entity is on the "specially designated nationals" (SDN) (i.e. terrorists) list before issuing a policy or making a claims payment, as federal law prohibits transactions with persons on the SDN list. When a payee's name appears to match an individual on the SDN list, the insurer is required to withhold the payment and report the match to OFAC. SSNs are used by

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<sup>1</sup> The AIA represents property-casualty insurers that write in all US jurisdictions and in many other countries. Some members have served the public for more than 150 years.

companies to determine if the payee is actually the person whose name is on the SDN list. Inability to use SSNs would undermine the ability of insurers to clear false positive matches and would result in disruption to many payees.

Some no-fault automobile insurance regulations require the carrier to provide a SSN on claims documents sent to health care providers.<sup>2</sup> Likewise, SSNs are required on workers' compensation forms, both on the form the employer completes in order to report the accident and on the form the worker completes to collect benefits.<sup>3</sup>

Another claim-related use for SSNs occurs for payments to individuals in the many states that require property-casualty insurers to confirm that a claimant does not owe child support payments prior to settlement. Wage garnishment is allowed for child support payments in many states.<sup>4</sup>

Many of the administrative mandated uses for SSNs are for taxes or for licensing. Consider that many property-casualty insurers sell their products through the independent-agency system. They need to collect agents' SSNs, both for tax reporting purposes and for state licensing purposes. The SSN is a required field on the National Association of Insurance Commissioners (NAIC) Producer Licensing Model Application,<sup>5</sup> which the majority of states use.<sup>6</sup> There are no alternatives for the SSN in these instances. Also, some sole proprietor vendors or providers may use their SSN as their professional tax ID number. For reporting purposes, insurers need to capture these numbers in their systems.<sup>7</sup>

For certain high level insurance executives, biographical information must be provided to the states, including SSNs (and in some instances, fingerprints as well). Background checks on potential employees also rely heavily on SSNs. Consumer reporting agencies use the SSN to ensure the background review is for the correct person. These efforts may involve review of state criminal records or FBI information. Many states require the Uniform Certificate of Authority Application (UCAA), handled by the NAIC. The SSN is requested as part of the

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<sup>2</sup> Consider, for example, New York Governor's Office of General Counsel August 17, 2004 opinion "No-Fault Claim Documents and Social Security Numbers," representing the position of the Insurance Department.

<sup>3</sup> To illustrate, citations for several states requiring SSNs on such forms follow: AZ ST Sec. 44-1373.01, 69 FL ADC 69L-3.004, 40 LA ADC Pt I, Sec 6647 form, ND ADC 92-01-02-02.3, NH ADC Lab 515.02, OR WB Bulletin 101 (Revised), OR ADC 436-060-0010, 28 TX ADC Sec. 41.15, 28 TX ADC Sec. 102.8, 16 VA ADC 30-90, VWC Form 45-A.

<sup>4</sup> For example, see R.I. Gen. Laws §27-57-1 et seq. and Mass. Gen. Laws. Ch. 175, §24D and ch. 119A. If the property-casualty insurer is not required to proactively determine if a claimant owes child support money, it is often required to verify and comply with lien notifications. See, Ala. Code §30-3-191 et seq.; Ark. Code Ann. 9-14-208 and Ark. Ins. Bulletin 402004 (March 1, 2004); Cal. Fam. Code §17450 et seq. and California Department of Child Support Services Letter 02-26 (December 13, 2002); Delaware - Del. Code Ann. tit. 13, §2207 and 2215; Fla. Stat. §409.25657 et seq. (specifically 409.25659); 305 ILCS 5/10-24 et seq. and 80 Ill. Adm. Code 160.70; Mich. Comp. Laws §500.418; N.H. Rev. Stat. Ann. §161-c:3-f; N.J. Stat. ann. A:17-56.23a and 2A:17-56.23b; N.C. Gen. Stat §§58-3-185 and 110-139.2; N.D. Cent. Code §§35-34-02 et seq., 50-09-01 and 50-09-08.2; Okla. Stat. tit. 43, §135; tit. 56, §§240.2 and 240.22A et seq.; and tit. 85, §48.1; 23 Pa. Cons. Stat. §§4302, 4304.1 and 4348; Tex. Fam. Code §157.311 et seq. (specifically 157.317) and §231.015. In addition, 26 states participate in the "Child Support Lien Network" started by Rhode Island to assist in the interception of settlement payments of those that are delinquent in their child support payments. See <http://www.childsupportliens.com/>.

<sup>5</sup> See line 1 of the Uniform Application for Individual Insurance Producer License: <http://www.licenseregistry.com/documents/indapp.pdf>.

<sup>6</sup> California does not use the NAIC model, however they still require the SSN. CA lists the following citations - Cal. Ins. Code, § 1666.5; Cal. Civil Code, § 1798.17; Cal. Family Code, § 17520(d); and Federal Privacy Act of 1974, §§7(a)(2)(B) and 7(b).

<sup>7</sup> See IRS Form 1099.

application.<sup>8</sup> In addition, the Federal Violent Crime and Law Enforcement Act background checks may require use of SSNs.<sup>9</sup>

While moving away from SSN as an employee number may prove extremely difficult for some insurers – from a computer administration perspective, it leaves a 9 character field for IT to address – even insurers that have moved away from use of SSN as an employee identification number need this information for other purposes. Importantly, like any other employer, property-casualty insurers must use SSNs for tax purposes. Also, state unemployment letters may reference an employee's SSN.

### Preventing Fraud

Insurance companies must constantly be watchful against fraud. Without such efforts, insurance costs would be higher.<sup>10</sup> In acknowledgement of this important function, States require insurers to have Strategic Investigation Units (SIUs). While the state-mandated reports do not include SSNs, many investigation activities rely heavily on SSNs. Indeed, SSNs are invaluable in the industry's efforts to fight fraud.

In terms of evaluating a claim, a SSN provides a very reliable method of authentication as to the identity of the claimant when fraud is suspected.<sup>11</sup> Ironically, the unintended consequence of an effort to reduce identity theft by restricting use of SSNs may be to limit the ability of insurers to confirm an individual's identity. Many claimants are third parties (and not the policyholder with whom the insurer has a customer relationship), so the insurer has even more reason in certain circumstances to confirm an individual's identity before making payment.

Staged accidents are not without cost to the property-casualty system and to society. Claimants may submit fake information in these efforts. SSNs serve as a check against this kind of fraud.

One of the tools available to property-casualty insurers for their use in learning more about a claimant is the claim history report. The Insurance Services Office (ISO) maintains an "all claims database" that can be queried by SSN. Some insurers may use this tool as a matter of course. For workers' compensation insurance, the National Council on Compensation Insurance (NCCI) serves as the resource for claims history reporting. The SSN is one of the fields of information provided. It is our understanding that now only the last 4 digits of the SSN are disclosed, unless there is a need for further review.

There are additional ways that use of SSNs proves beneficial to detect fraud. For example, medical provider payments may be made according to a SSN. An insurer's payment processing system may review against prior payments before allowing issuance of a new check – this will help guard against duplicate payments. Also, some insurers may conduct audits of their policyholders. While most large, sophisticated organizations prepare payroll reports for their insurers, smaller, less sophisticated organizations, such as agents that are sole proprietors, may share W-2s or 1099s, which contain SSNs, and expect the auditor to glean the information they need from those.

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<sup>8</sup> See [https://www.naic.org/industry\\_ucaa.htm](https://www.naic.org/industry_ucaa.htm).

<sup>9</sup> For example, see [www.in.gov/foi/pdf/application%20act1994pdf](http://www.in.gov/foi/pdf/application%20act1994pdf).

<sup>10</sup> For notes and figures about insurance fraud, see <http://www.insurancefraud.org>, focusing on the statistics and story ideas sections.

<sup>11</sup> See authentication discussion below.

### Other SSN Uses Authorized by Law

Even when not required by law or regulation, property-casualty insurers use SSNs for operational purposes.

SSNs are needed in dealings with the health care system, including medical providers. The medical and health insurance systems rely heavily upon SSNs as a means of identifying patients. During the claims process, health care providers require property-casualty insurers to supply patient SSNs in order to obtain medical information in connection with processing claims. Erecting barriers to obtaining this information will increase costs and run the risk of incorrect information being provided in connection with claims submitted by consumers. Similarly, in instances involving more than one insurer (and possibly involving a health insurer or another kind of policy), the SSN is an important and necessary way to communicate and reconcile claimant data.

In regard to the insurance underwriting process, SSNs play an important role in helping carriers obtain information to properly underwrite policies, such as in the acquisition of credit reports. This is particularly helpful in “no hit” instances where the insurer is unable to secure the information without the SSN. Motor vehicle reports are also able to be pulled by SSN. In addition, for insurers focusing their business on military personnel, a SSN is important to confirm the applicant's occupation.

Insurers sometimes provide (or make available) coverage to individuals through a workplace. This may include workers' compensation insurance or products offered through an affinity program. Where that employer uses the SSN as the employee number, insurers then, as a practical matter, may be obligated to use that same identifier as well. Also, employer management systems often track employees by SSN. Therefore, to interface with such systems, the property-casualty insurer as a vendor must use this information to match with the policyholder's system.

Finally, in situations involving subrogation – for example, if an insured is injured in an automobile accident involving an uninsured motorist – the insurer will pay their customer's claim and then seek reimbursement from the at-fault motorist. In such instances (or those involving liens or judgments), the insurer may conduct an asset search using the tortfeasor's SSN in order to engage in the collection process. Indeed, as a general matter, the SSN is useful to find necessary third parties. Also, SSNs are typically displayed in documents about a tax levy or garnishment. In these situations, the insurer may receive notice of a tax levy against an insured, claimant, vendor or employee. These requests typically display a SSN.

### SSNs as an Authenticator / Internal Identifier

SSNs are a tool to help the insurer confirm the person is in fact who he/she claims he/she is. This aids the property-casualty insurer in allocating claim information to the appropriate person or to the appropriate claim. Given the vast number of medical appointments and medical procedures, insurers and health care providers need to make sure that the information being reviewed indeed relates to a particular claimant. Also, SSNs are indispensable for the identification of medical records. For example, consider a property-casualty claim for someone with a new bodily injury, where this injury is not the first one for that individual. It is important for the insurer to be able to separate out any old injuries from the new ones and any work-related

injuries from the non-work-related ones. Being able to get access to these medical records is crucial to these kinds of checks on the system.

From an administrative standpoint, when a person calls a property-casualty call center, he/she may not have his/her policy number available. In order for the individual to be able to verbally address issues related to his/her policy, some insurers may ask him/her to provide a SSN as one of the possible back-up modes of identification.

SSNs are a tool within the company as a piece of data used to keep track of an individual's records, without reliance on an external source (as compared with an authentication purpose). In other words, they are used for internal identification in a few circumstances. For example, the number is necessary for use with third party vendors who provide benefits programs (including health, pension, 401k, etc.). Some insurers are moving away from using a SSN as an employee ID number. In some instances, they may be using a truncated SSN as part of the ID number or as part of the computer login password. Finally, some insurers may use the SSN as a way to track claimants.

### Privacy Protection and Data Security

Providing privacy protection and data security safeguards has been a way of business for property-casualty insurers for many years. In addition to other privacy-related requirements, such as insurance privacy laws in at least 15 states based in whole or in part on the 1982 NAIC Insurance Information and Privacy Protection Model Act,<sup>12</sup> insurers are already providing data security protection via standards first established by Title V of the Gramm-Leach-Bliley Act of 1999 (GLBA) and subsequently adopted in most states. Indeed, most state insurance departments adopted data security regulations based on an NAIC model data security rule, which requires implementation of administrative, technical and physical safeguards.<sup>13</sup> Insurers have implemented procedures and safeguards to reduce risk and to protect their customers' information. The insurance industry takes this responsibility seriously.

### Alternatives to SSN Use

For the most essential uses of SSNs, there are no alternatives. SSNs are sometimes required by law and are necessary for interacting with the health care system. Given the mobility of our society, alternatives may not be as accurate. Because relevant medical and other records go back many years, introducing a new numbering system is extremely costly and difficult, if not impossible for some. Consider, for example the fact that there have been numerous mergers and acquisitions in financial services. From an IT perspective, legacy systems present a major challenge for unbundling numbers and for revising practices, and will prove costly, with even the elimination of limited internal uses of SSNs. This is no minor undertaking from an operational perspective. SSNs represent the only comprehensive nationwide tool to verify the identity of an individual. Implementation of a nationwide alternative may ultimately present the same challenges as posed by the SSN today.

### Conclusion

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<sup>12</sup> See J. Stephen Zielezienski and Catherine I. Paolino, "Insurance Privacy after Gramm-Leach-Bliley – Old Concerns, New Protections, Future Challenges," Conn. Ins. Law. J., Vol. 8, No. 2 at p. 317 & note 5 (2002), for citations to state statutes and regulations adopting the 1982 NAIC Model.

<sup>13</sup> NAIC Standards for Safeguarding Customer Information Model Regulation.

For the property-casualty insurance industry, given the degree to which legally-mandated uses of SSNs is integrated with legally permissible uses for operational reasons, restricting the current authorized uses of these identifiers would seriously impair the legitimate functions of insurers on behalf of their customers, increase costs for consumers and result in increased fraud and a significant loss of consumer convenience and benefits. Indeed, without the ability to utilize SSNs as authorized, the ability for insurers to continue providing a high level of service with the same level of efficiency will be adversely affected. For this reason, and others presented above, it is important that insurers be allowed to collect, use, and disclose SSNs, as they remain essential to the business of insurance. Preserving the appropriate business collection, use and disclosure of SSNs is critical.

Respectfully submitted,

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